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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,095	02/11/2004	Takashi Imai	03500.100171.	1582
5514 7590 12/15/2008 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
ZHENG, JACKY X				
ART UNIT		PAPER NUMBER		
2625				
MAIL DATE		DELIVERY MODE		
12/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/775,095

Applicant(s)

IMAI ET AL.

Examiner

JACKY X. ZHENG

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on October 22, 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 34-41 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on February 11, 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to amendment/remarks filed on October 22, 2008.
2. **Claims 1-33** have been cancelled.
3. **Claims 34-41** are newly added.
4. **Claims 34-41** are currently pending.

Election/Restrictions

5. This application contains claims directed to the following patentably distinct species:
 - I. Species of the embodiment disclosed in Specification, **i.e. Fig. 3**, directed to an image processing apparatus, a method of controlling an image processing apparatus, and a computer-readable storage medium storing a computer executable program for controlling an image processing apparatus, inter alia, having "an access control unit" constructed to set a card slot as an accessible card slot which the reading unit can access, wherein, in an initializing state after a power supply is supply is turned on, the access control unit sets a card slot in which a memory card is first inserted as the accessible card slot, sets the card slots other than the accessible card slot as inaccessible, and does not change the setting of the accessible card slot until the power supply is turned off", *corresponding to* Claims 34, 37 and 40.
 - II. Species of the embodiment disclosed in Specification, **i.e. Fig. 7**, directed to a recording apparatus, a method of controlling a recording apparatus, and a computer-readable storage medium storing a computer executable program, for controlling a recording apparatus, inter alia, having "a power supply switching

circuit constructed to supply power to only one connection unit in which a external memory card is first inserted from among the plural connection units, in response to the respective detection signals after a state in which the external memory card is not inserted in any of the plural connection units, wherein said power is supplied for the external memory card which is first inserted in the one connection unit, *corresponding* to Claims 35-36, 38-39 and 41-42.

6. The species are independent or distinct because claims to different species recite the mutually exclusive characteristics of such species, such as the ones discussed and highlighted above. In addition, these species are not obvious variants of each other based on the current record.
7. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.
8. There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g. searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C 112, first paragraph.
9. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable

thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

10. The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

11. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

12. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

13. Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

14. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Response to Arguments

15. In regard to Applicant's remarks on Pg. 3, third paragraph, regarding interpretation of an indefinite article "a" or "an", herein respectfully re-iterate for prosecution record, as once again provided by Applicant with, Baldwin Graphic Systems, Inc. v. Siebert, Inc., Slip Op. 2007-1262, pg. 7, and clearly indicated and re-stated by Applicant that "*'a' limits the claimed card slot (or card reader) to a single card slot, or to a single card reader, is unsupportable as a matter of law*" (third paragraph on Pg. 9 of Applicant's remarks filed on October 22, 2008), Examiner acknowledges such clarifying statement provided by Applicant in such "a" or "an" means "one or more", and will take into consideration of such in future prior art consideration, in such as, "a slot" disclosed, taught and/or suggested by a future prior art could be interpreted as "one or more slot(s)" in accordance with and to be consistent with Applicant's assertions.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacky X. Zheng whose telephone number is (571) 270-1122. The examiner can *normally* be reached on Monday-Friday, 8:30 a.m. - 5 p.m., Alt. Friday Off.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Twyler M. Lamb can be reached on (571) 272-7406. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jacky X. Zheng/
Examiner, Art Unit 2625
December 8, 2008

/Twyler L. Haskins/
Supervisory Patent Examiner, Art Unit 2625